

**MINUTES OF A MEETING
KENTUCKY WORKERS' COMPENSATION FUNDING COMMISSION
BOARD OF DIRECTORS**

September 26, 2018

Opening of Meeting:

1. A regular meeting of the Board of Directors, Kentucky Workers' Compensation Funding Commission was held on September 26, 2018, in the Commission's conference room, located at 42 Mill Creek Park, Frankfort, Kentucky. Madam Chair Judy Long called the meeting to order.
2. Ms. Angela Calloway announced the meeting will be recorded in accordance with Kentucky Revised Statute 61.835.
3. Madam Chair Long verified the press notice and asked for a roll call.

Directors Present:

4. Judy Long, Self-Insured Employers Representative
David Dickerson, Acting Secretary, Labor Cabinet
Duran Hall, Commercially Insured Employers
Ryan Barrow, Designee for Secretary William Landrum, Finance & Administration Cabinet

Others Present:

5. Reuben Jones, Executive Director, KWCFC
Louie Hord, Director of Fiscal Operations, KWCFC
Lisa King, Director of Audit and Collections, KWCFC
Olivia Orrender, Audit Review Manager, KWCFC
Angela Calloway, Fiscal Services Officer, KWCFC
Ryan Robinson, Administrative Services Officer, KWCFC
Michael Swansburg, General Counsel, Labor Cabinet
Charlie Donovan, Special Fund, Department of Workers' Claims
Robert Milligan, Deputy Commissioner, Department of Workers' Claims
Christina Gordley, Budget Analyst, Office of State Budget Director
David Rogan, Conning Inc.
Jon Stewart, KEMI
Steve Lattanzio, Actuarial and Technical Solutions
Allen Norvell, Blue & Co.
Dustin Miller, Government Strategies
Melanie Gabbard, HealthSmart
Ed O'Daniel, Attorney

Approval of Minutes:

6. Mr. Ryan Barrow made a motion to approve the July 25, 2018 Regular Meeting Minutes. Mr. Duran Hall seconded the motion. Motion carried.

Audit & Collections Update: Lisa King (report on file for referral)

7. Ms. Lisa King presented an update on the number of audits ongoing and completed.
8. Secretary David Dickerson made the motion to accept the Audit and Collections report as presented. Mr. Ryan Barrow seconded the motion. Motion carried.

Coal Workers' Pneumoconiosis Fund Liability Update: Jon Stewart

9. Mr. Jon Stewart reported when KEMI took over in July 2017 there were five hundred forty-two (542) claims in pay status. There were seven hundred sixty (760) claims that were somewhere in the adjudication process. To date, there are under one hundred claims that still need to go through the process. One hundred fifty-two (152) of the seven hundred sixty (760) claims have been awarded some type of a benefit. Some claims have been settled, closed or dismissed. It was estimated about a year ago that this cost was going to be around \$40M. It is believed by the end of this year there should be enough money collected to cover that cost.
10. He stated there are some risks that need to be recognized. One risk is the possibility of a challenge to House Bill 2. If there is a negative outcome, this could increase the liability of the Coal Fund. He stated that continuing the collection of assessment at a lower rate, would be better than stopping it and having to restart it at a later date.
11. Mr. Stewart commended Judge Swisher and the KEMI attorney for their work handling claims so quickly.

Financial Report: Louie Hord (report on file for referral)

12. Mr. Louie Hord reviewed the year to date budget versus actual expenses for KWCFC, the year to date internal financial statements, and fiscal year to date interagency transfers made by KWCFC for the period ending August 30, 2018.
13. Mr. Duran Hall made the motion to accept the financial reports as presented to the Board. Secretary David Dickerson seconded the motion. Motion carried.

Investment Report: Ryan Barrow

14. Mr. Ryan Barrow gave a brief statement regarding their work for the Commission. He stated the Office of Financial Management (OFM) will be happy to assist Conning as needed.

15. Madam Chair Long thanked OFM for their work over the last several years.

Investment Strategy: David Rogan, Conning, Inc. (report on file for referral)

16. Mr. David Rogan presented the recommended portfolio allocation to the Board.

17. Secretary David Dickerson made the motion to accept the investment report as presented by Conning. Mr. Duran Hall seconded the motion. Motion carried.

Financial Audit for Fiscal Year 2018: Allen Norvell, Blue & Co.

18. Mr. Allen Norvell thanked the Board for the opportunity to conduct the audit and expressed his appreciation to the Funding Commission and staff for their cooperation and assistance. Mr. Norvell reviewed the financial statements of the Workers' Compensation Funding Commission for the year ending June 30, 2018. Blue and Co. issued an unmodified opinion, dated September 25, 2018, on the financial statements of the Funding Commission and for the fiscal year ending June 30, 2018. The audit disclosed no instance of noncompliance, which are material to the Funding Commission's financial statements. The audit disclosed no finding required to be reported in accordance with the Government Auditing Standards.

19. Mr. Duran Hall made a motion to accept the Financial Audit as presented by Mr. Norvell. Mr. Ryan Barrow seconded the motion. Motion carried.

Actuary Report: Steve Lattanzio, Actuarial & Technical Solutions

20. Mr. Steve Lattanzio presented the firm's actuarial analysis of the Special Fund and the Coal Workers' Pneumoconiosis (CWP) Fund. Mr. Lattanzio's presentation provided analysis and trends to assist the Board with its requirement to set the 2019 Special Fund Rate and Coal Assessment Rate. All questions by the Board were answered and Mr. Lattanzio informed the Board he was available if other questions or concerns arose.

Executive Director Update: Reuben Jones

2019 Assessment Rates

21. Mr. Reuben Jones made a presentation concerning legal requirements followed in recommending the 2019 rate. Based upon the actuary information and legal requirements, Mr. Jones stated the KWCFC staff recommendation for the 2019 Special Fund Assessment Rate on all employers is 6.41% (point estimate). He added that after discussions with KEMI and others, the staff recommends the Coal Fund Assessment Rate of 2% and tonnage at .02 cents per ton. All rates will be effective on January 1, 2019.

22. Mr. Duran Hall made a motion to approve the Special Fund Assessment Rate of 6.41% for 2019. Secretary David Dickerson seconded the motion. Motion carried.

23. Secretary David Dickerson made a motion to approve the Coal Fund Assessment Rate of 2% and .02 cents per ton for 2019. Mr. Duran Hall seconded the motion. Motion carried.

Regulation Update

24. Mr. Reuben Jones reported KWCFC submitted a repeal of one regulation and amendment to the second regulation in August. They will soon be assigned to a committee for consideration and approval.

Investment Policy Statement

25. Mr. Reuben Jones stated a draft of the revised Investment Policy Statement was presented to the Board at the last meeting and there were some final edits requested and added. The final version will be presented again to the Board for vote and signature.

26. Secretary David Dickerson made a motion to approve the Kentucky Workers' Compensation Funding Commission revised Investment Policy Statement. Mr. Ryan Barrow seconded the motion. Motion carried.

Executive Session:

27. Madam Chair Long asked for a motion to go into Executive Session under KRS 61.810 (1) (c), (f) and (j) to discuss litigation, personnel, and penalty waivers.

28. Secretary David Dickerson made the motion to go into Executive Session. Mr. Duran Hall seconded the motion. Motion carried.

Open Session:

29. Secretary David Dickerson made the motion to return to open session. Mr. Duran Hall seconded the motion. Motion carried.

Other Business:

Litigation Update

30. Ms. Lisa King reported there are six cases in different stages of litigation. She will provide another update as they progress.

Personnel

31. Mr. Ryan Barrow made a motion to approve an alternate work plan for the Executive Director Reuben Jones. Mr. Duran Hall seconded the motion. Motion approved.
32. Secretary David Dickerson made a motion to find member Ted Lockett's attendance to be below the standard needed and expected of a member of this Board, and to recommend to Governor Bevin that he replace Mr. Lockett with a new member representing Labor in accordance with KRS 342.1224 (2) (a). Mr. Ryan Barrow seconded the motion. Motion carried.

Contracts

33. Mr. Louie Hord reported the Director's and Officer's Insurance (D&O Insurance) expires on 12/31/18. The current contract has an option for a one-year renewal. It is the recommendation of the Commission to renew the insurance contract with Powell-Walton-Milward for the period from 12/31/18 – 12/31/19.
34. Mr. Duran Hall made a motion to accept the contract as stated. Mr. Ryan Barrow seconded the motion. Motion carried.
35. Mr. Louie Hord also reported following approvals the Request for Proposal (RFP) for legal services would be posted on the procurement website.

New Business

35. No new business.

Adjournment

36. Secretary David Dickerson made a motion to adjourn. Mr. Duran Hall seconded the motion. Motion carried.


Chairman of the Board